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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,138	08/06/2003	Christopher Rixon	65,748-733	8406

27305 7590 06/16/2006

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EXAMINER

WILHELM, TIMOTHY

ART UNIT

PAPER NUMBER

3616

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/635,138	RIXON ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Timothy D. Wilhelm	3616	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 7, 10-12, 16, 17, 20, and 21 is/are rejected.
- 7) ☒ Claim(s) 4-6, 8, 9, 13-15, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. ____.  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>12/1/2004</u> .   | 6) <input type="checkbox"/> Other: ____.                                    |

## **DETAILED ACTION**

### ***Claim Objections***

1. Applicant is advised that should claims 8 and 18 be found allowable, claims 9 and 19 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 3, 12, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ewing et al (6,565,160) in view of Ono et al (6,327,930). Ewing et al disclose a vehicle comprising a brake system 10, an operator space, a pedal arm 14, a hydraulic system 20 responsive to said pedal arm 14 for pressurizing hydraulic fluid to actuate said vehicle brake system 10, a fluid release mechanism 30 for relieving hydraulic fluid in said hydraulic system 20 in response to crash conditions to allow said pedal arm 14 to move forwardly unimpeded by hydraulic fluid, wherein said fluid relief mechanism 30 includes a cylinder 70 and a piston 76 slideably disposed in said cylinder

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70 for movement between a normal operating position and an accumulator position, and a crash sensor 40 of which the fluid relief device 30 is responsive to said sensor 40 for relieving said hydraulic fluid pressure in response to said crash conditions. Ewing et al disclose the present invention except for a cross beam, a support bracket supporting the vehicle and pivotally supporting said pedal arm forward of said operator space for operational movement in an operating range between a forward brake applying position and a rearward release position, and a crash control device for interacting between said cross beam and said pedal arm. Ono et al teach a vehicle brake system comprising a cross beam 74, a support bracket 30 supporting the vehicle and pivotally supporting a pedal arm 10 forward of an operator space, and a crash control device 76 having predetermined resilient characteristics for interacting between the cross beam 74 and said pedal arm 10 in the event of rearward movement of said pedal arm 10 out of said range to limit movement of said pedal arm 10 toward said operator space. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teaching of Ono et al to the crash relief pedal assembly of Ewing et al to protect the vehicle driver's foot and leg from rearward movement of the brake pedal during a collision.

4. Claims 7,10,11,17,20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ewing et al in view of Ono et al and in further view of Horsch et al (6,866,294). Ewing et al and Ono et al disclose the present invention except for the crash control device comprising a plastic, honeycombed spring member disposed between a cross beam and pedal arm. Horsch et al teach a crash control device 19

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comprising a spring member, wherein the spring member is plastic and of honeycombed structure that is disposed between a cross beam 13 and a pedal arm. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to apply the teaching of Horsch et al to the crash control device of Ewing et al and Ono et al to better cushion the impact of the pedal arm and also to apply support to the driver's knee during collision.

#### ***Allowable Subject Matter***

5. Claims 4-6,8,13-15, and 18 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Saitou et al disclose a vehicle brake assembly comprising a pedal arm 61, hydraulic system 82, a cross beam 5, and a crash control device 86 for interacting between said cross beam 5 and said pedal arm 61 in the event of a collision. Huber discloses a curved leaf spring 2 attached to a pedal arm 3 to control movement of said pedal arm 3. Bauer et al (5,927,821) disclose a brake system comprising a pedal arm 3, a hydraulic system 1, and an accumulator 67,68 including a cylinder and a piston.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy D. Wilhelm whose telephone number is 571-272-6980. The examiner can normally be reached on 9:00 AM to 5:30 PM Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 571-272-6669. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


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TDW

 4/12/06  
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